Supreme Court, U.S.
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No.

In The
Supreme Court of the United States

United States of America, and;
State of California, and;
ex rel. Miro J. Satalich,
Petitioner(s),

v.

City of Los Angeles
Respondent.

On Petition For Writ Of Certiorari to the United States Court of Appeals for 9th Circuit

PETITION FOR WRIT OF CERTIORARI

Miro J. Satalich, Pro se
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QUESTIONS PRESENTED

(1) In reference to Federal Rules of Appellate Procedure, Rule 21(2)(C), did the 9th Circuit Court of Appeals Panel fail to fulfill their obligations, by not hearing the below described questions in Appeals Docket #: 04-56758 prior to case being closed and/or even after the case was dismissed by the District Court?

(2) As respects Title 31 U.S.C. §§ 3729 et seq. discovery in qui tam action. Did the District Court Judge error, by making an impossible ruling requiring the Plaintiff to prove fraudulent funds paid by the City, while in the same breath denying and barring discovery to public records/accounts of the City of Los Angeles containing grant Funds paid to them by the Federal government and State of California?

(3) In accordance with Title 28 U.S.C. §§ 144, 455, and; upon motion to recuse and/or disqualification, and; after filing documents asserting impartiality and evidentiary issues, is a U.S. District Judge, required to step down, and the case be assigned to another Judge, on a one time basis only, as required by statute? And, if the Judge declines to recuse, is it immediately appealable to a higher Court?

(4) Is there a difference between: (1) requesting recusal without citing Title 28 U.S.C. §§ 144, 455, from that of: (2) requesting same recusal in the form of a notarized affidavit, inasmuch as first request was identified as a motion by the Judge, while the second request definitely was in the form of a motion and notarized affidavits, citing Title 28 U.S.C. §§ 144, 455, then both requests being denied, by another Judge,

not assigned to the case? Also, there is a definitive conflict of opinions between the Fifth and DC Appellate Courts regarding Title 28 U.S.C. §§ 144, 455. See U.S. Supreme Court Liljeberg v. Health Services Acquisition Corp. 486 U.S. 847 (1988) 486 U.S. 847 and US Court of Appeals For The DC Circuit Argued February 26 and 27, 2001 Decided June 28, 2001 No. 00-5212 United States of America, Appellee v. Microsoft Corporation, Appellant Consolidated with 00-5213 Appeals from the United States District Court for the District of Columbia (No. 98cv01232) (No. 98cv01233).

(5) In all appearances, are United States District Court, Central District of California General Orders #194-E and #244 being used by District Judges as a subterfuge to bypass Title 28 U.S.C. §§ 144, and 455? Since not statutes, are these General Orders in fact legal?

(6) Were the Plaintiff's due process rights abridged, when filed pleadings, and Court Orders were either intentionally withheld by the Court, and not entered into the Pacer CM-ECF, and/or supposedly not having reached the Court, numerous times over?

(7) Was the Court Docket Record system flawed, as the Court claims Relator's filed pleadings never reached the Court, yet provided the Court with four methods of "Proof of Service." Also, for example, the Court issued a large opinion dated July 27, 2001, dismissing all contractors for One thing or another, yet the Court never filed the document into the record. Upon examination by this Court, is the Court Record of CV-00-08882-GAF-(PLAx) in error?

(8) Since the City of Los Angeles has stonewalled and intentionally withheld subpoenaed public records, and upon motion, was not compelled by the Court to produce, the Plaintiff also requested the 9th Circuit, as an alternative, issue a "Writ of Mandamus" awarding the Plaintiffs, "Default Judgement." Since the 9th Circuit panel declined to review or give any explanation whatsoever thereof, the Plaintiff is asking the same question of this Court?

(9) In conclusion, the Appellant's prays that the High Court accept to hear all arguments, rule, and **remand back** to the 9th Circuit Court of Appeals, that Judge Gary A. Feess, be disqualified from CV-00-08882GAF(PLAx), and any other litigation with the Appellant and the CLA. That discovery be reopened for audit by a Certified Public Accountant for all public records containing federal grant funding, namely, but not inclusive of aforementioned "Environmental Trust Account." File a Supplemental Complaint based on newly acquired evidence.

Or, as an alternative. Since the City of Los Angeles has been in perpetual default, award the Plaintiffs " Default Judgment."

PARTIES

United States of America, and; State of California, and;
ex rel. Miro J. Satalich

Petitioners,

v. CV-00-08882-GAF-(PLAx)

City of los Angeles

Respondent.

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Petitioner Miro J. Satalich respectfully prays that this Court grant a writ of certiorari to review the judgment and opinion of the United States Court of Appeals for the Ninth Circuit entered on January 19, 2005.

OPINIONS BELOW

The January 19, 2005 opinion of the court of appeals is set out at pp. 1a, 2a, of the appendix A, and B to the Petition. The main part of the United States District Court opinions are being appealed to the 9th Circuit Court of Appeals **#04-57163.**

JURISDICTION

The decision of the court of appeals was entered on January 19, 2005. The jurisdiction of the Court is invoked pursuant to Title 28 U.S.C. § 1254. Also, Petitioner filed with this Court post marked received on March 2, 2005. However was rejected because of improper format, and given 60 days to re file as of March 3, 2005.

STATUTES AND REGULATIONS INVOLVED

In accord with Title 28 U.S.C. §§ 1253, and 2101(e), this action, being a Title 31 U.S.C. § 3729 et seq., lawsuit, that being a Congressional Act, involving alleged fraud of government grant funding, thereby, falling squarely under U.S. Supreme Court Rule 11, and;

See *U.S. v. Microsoft*, *Liljeberg v. Health Services* , *Liteky v. U.S.* and *U.S., State of California, ex rel. Miro J. Satalich v. City of Los Angeles* . There appears to be a definitive difference of opinions between the 5th, DC, 9th Circuit Appellate's, and the U.S. Supreme Court of judge disqualification pertaining to 28 U.S.C. §§ 144, and 455.

In the DC Appellate ruling, U.S. District Judge Thomas Penfield Jackson was retroactively disqualified, yet the 9th Circuit Court of Appeals ruled District Judge Gary A. Feess disqualification "**not appealable**." Therefore, petitioner is begging for clarification.

STATEMENT OF THE CASE

The City of Los Angeles Hyperion Wastewater Treatment Plant (HTP), was a run down, neglected, undermanned, environmental disaster. In 1977, the City of Los Angeles (CLA) and State of California were sued by the United States of America, Environmental Protection Agency (EPA) and various private environmental groups, namely, Santa Monica based "Heal the Bay", due to discharging untreated sewage and wastewater into Santa Monica Bay and for lack of maintaining the large facility. The results of the suit were a Consent Decree Order, signed by **District Judge Harry Pregerson** on June 19, 1980, which led to an Amended Consent Decree (**ACD**) date of February 19, 1987, again signed by **Appellate Judge Harry Pregerson** , who, although an **Appellate Justice**, was supposedly allowed to retained and overlook the case in it's entirety, until he closed it on August 7, 2000, and also according to the record, still was overseeing CLA Hyperion, CV-77-3047HP, CV-00-08882-GAF-(PlAx), and CV-04-9193-GAF(PLAx). The State of California plead itself into the Plaintiff's position.

The estimated cost of updating Hyperion was 2.5 billion dollars. Monies came in the form of the U.S. Super Funds and grants from the United States of America, Environmental Protection Agency (80%), and the State of California (10%), and with The CLA contributing about ten percent (10%). Construction started on the Hyperion energy recovery system (HERS) about 1982, and plant updating concluded with case

closure by **Appellate Judge Harry Pregerson** on August 7, 2000.

US GOVERNMENT, STATE OF CALIFORNIA CITY OF LOS ANGELES- FUNDING

Eighty percent of funding was provided by grants from the United States Department of Justice, Department of Interior, Environmental Protection Agency, Superfund. Ten Percent funding provided by the State of California. Ten percent matching funding by the City of Los Angeles, through public sewer tax. First Training contract to Metcalf & Eddy Services, $13,000,000.00. Second Training contract to Metcalf & Eddy Services, $3,500,000.00. MCS contract to oversee Metcalf & Eddy, $130,000.00. per year. MCS Training Group contract for C-109 project, $2,800,000.00. Approximate contracted Training costs, $20,000,000.00.

All monies were placed in a trust fund under the control of elected city official Rick Tuttle, City Controller, then disbursed by his office on approval of all training contractors by the Bureau of Sanitation via Hyperion HRDD managers.

The Appellant alleges that: He was employed by the City of Los Angeles from March 30, 1987, to May 10, 1995, at the City of Los Angeles, Hyperion Wastewater Treatment Plant, 12000 Vista Del Mar, Playa Del Rey, California 90293. On or about October 1990, the Appellant transferred to Hyperion's Human Resources Development Division (HRDD), Training Section. Further, the Appellant alleges that after reporting training fraud and waste to City government, pertaining to the Federal Court Ordered Amended Consent Decree (Case #77-3047-HP), which happened prior to and noticeably on October 28, 1991, that starting with a breach of confidentiality from a plant manager, the Appellant was

harassed, which continues to present date. Hyperion and HRDD management knowingly and intentionally: Harassed, threatened, intentionally falsified the Appellant's work records to take steps to fire him and discriminated against him in direct violation of: (a) State Labor and Penal Codes, (b) City Ordinance No. 168708, SEC 49.5.4.(A)(B)(C)(D), and (d) 31 U.S.C. § 3730(h), and, (e) Model Penal Code, § 224.4; 18 U.S.C.A. §§ 1506, 2071, 2073, and (f) Appellant's First, Fifth, and Fourteenth Amendments to the United States Constitution. On May 10, 1995, the Appellant became seriously ill and was forced to take medical leave because of allegedly unlawful harassment towards him, which was intentionally caused him by CLA Hyperion Plant, and HRDD managers.

The Appellant believes, that because of the language of Title 31 U.S.C. § 3730(e)(3) "**Certain actions barred**," and being overseen by Appellate Judge Harry Pregerson, he could not file an action because of being in conflict with the ACD, see footnote[1]. The Appellant believes this to mean, barring anyone from filing a Title 31 U.S.C. 3729 et seq., action, while the United States was still involved in CV-77-3047-HP, and the ACD. However, On March 19, 1999, the Appellant filed a Title 31 U.S.C. § 3730(h) Motion and Complaint of intervention into CV-77-3047HP, but was ignored by Judge Pregerson Court, and the City did not respond. The Appellant made numerous inquires with the Court Clerk and directly to Judge Harry Pregerson, but, to no avail or response. The Appellant contacted the U.S. Department of Justice, whereas, they were investigating the Appellant's complaints, and were

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[1] Title 31 U.S.C. § 3730(e)(3) "Certain actions barred" — "In no event may a person bring an action under subsection (b) which is based upon allegations or transactions which are the subject of a civil suite or an administrative civil money penalty proceeding in which the Government is already a party."

writing reports to the CV-77-3047HP Court. On August 7, 2000, and after consulting with the USDOJ and checking the case status with the Court Clerk, the Appellant filed a full blown qui tam intervention into CV-77-3047HP. However, after being filed ... seven days later, Judge Pregerson closed CV-77-3047HP and backdated to the same day as filed by Appellant, August 7, 2000. On August 22, 2000, the Appellant filed a new action, case number CV-00-08882GAF(PLAx). The Appellant was later contacted by Judge Pregerson's Court Clerk, to the effect, that the first 31 U.S.C. § 3730(h) intervention was still pending, but apparently the documentation was lost and to re file original documents directly to him. The Appellant complied, and waited for over a year with no response. Because of the City and Court not responding to the motion, the Appellant filed for Default, and Default Judgement, only to be rejected and told the case was closed on as per CV-77-3047HP, August 7, 2000.

REASON FOR GRANTING THE WRIT

There is a conflict among Appellate Courts regarding judge disqualifications. In this case, denying access to public records containing federal grant funds.

The Appellant has gone through well over four years of litigation with the major qui tam argument being whether a municipality was a person. On 6/09/2003, Judge Feess dismissed all causes. Due to ***Cook County v. United States ex rel. Chandler, 123 S. Ct. 1239 (2003) U.S. Supreme Court No. 01-1572***, CV-00-08882GAF was reinstated. Through stipulation, the City agreed to discovery. However, failed to produce, and when finally did, withheld, with Court approval, withheld critical public records containing Federal and State grant monies in the "Environmental Trust Fund" records.

Judge Feess denied the Appellant's access to public records containing Federal and State grant funds ___, hence, because of obvious evidentiary issues, Appellant requested Judge Feess disqualify himself, with the intention to reopening discovery with another judge. As indicated in the record, because of notable extreme prejudice and partial rulings from Judge Feess, the Appellant sought on two occasions for Judge Feess's disqualification. The Appellant believes that United States District Court, CDCA General Rules 244(4.0, 4.1, 4.2), and 194-E, are being used, in conjunction with another peer Judge, as subterfuge to undermine Title 28 U.S.C. §§ 144, 455 that could have far reaching affects in both attorney, and pro se criminal and civil cases in the greater Los Angeles area.

QUESTIONS PRESENTED TO THE COURT

I.

Refer to Appendix A, and B, pages 1a and 2a, Mandate from 9th Circuit Court of Appeals **Docket #04-56758**. On September 20, 2004 the Appellant filed with the 9th Circuit, also with a short brief preliminary page, stating cause for appeal. See Appendix F citing Extraordinary Writs as outlined in Federal Rules of Appellate Procedures Rule 21. In accordance with FRAP Rules 3, 4, and 5, the Appellant believes he had every right to be heard at this stage of the case. Clearly, FRAP 3 states: "appeal as of right," and as states within FRAP Rule 4(a)(1)(A) "In a civil case, except as provided in Rules 4(a)(1)(B), 4(a)(4), and 4©, the notice of appeal required by Rule 3 must be filed with the district clerk within 30 days after the judgment or order appealed from is entered. The Appellant assumes the words judgement or order appealed from is entered," to mean two separate and distinct applications of law. Judgement meaning finality, whereas, an Order meaning a command or direction by the Court. Further assuming an appeal may be taken from either individually, or from both, collectively. By Judge Feess denying access to

public records, the Appellant believes he was placed into an impossible and untenable position of proving a case without discoverable access to City Controller's **Environmental Trust Account**," that containing Federal and State grant funds. Feess's dismissal ofCV-00-08882GAF based on (see Appendix - J page 33a) a declaration, from a non elected person, and not from the elected City Controller. An untrue statement from an unaccountable person.

Judge Feess's preempted intention to dismiss was clear, and is enough to fulfill the requirement of FRAP Rule 4(a)(2 for the Appellant to file for appeal. Although Court Docket Entries are called "Minute Orders", they are still "Orders" that are signed at the bottom "AS SO ORDERED" supposedly appealable, before final "judgement." Clearly, FRAP Rule 4(a)(2) States:

> "Filing Before Entry of Judgment. A notice of appeal filed after the court announces a decision or order — but before the entry of the judgment or order — is treated as filed on the date of and after the entry."

The Appellant believes FRAP Rule 4(a)(2) to mean exactly as worded, that being able to file an appeal prior to final judgement. Moreover, the District Court dismissed CV-00-08882GAF on 11/18/2004, while the appeal was being reviewed and rejected by a three Judge 9th Circuit Panel citing as, not within their jurisdiction. On 11/30/2004, the Appellant filed a Reconsideration with the same 9th Circuit Panel citing case closure, however, was again denied as per 04-56758 Docket entry dated 12/29/2004, and Mandate issued date of

1/19/05. See footnote[2]. Summary of time line of 9th Circuit Court of Appeals events: The Appellant has filed three times with the 9th Circuit Court of Appeals, and, as yet, to be heard. Therefore, given the facts, the **question** before this Court: Did the 9th Circuit fulfill, or skirt their Appellate obligations in this case?

II.

The District Court barred Appellant's access to City of Los Angeles, City Controller's Office public records containing Federal and State grant funds, from discovery. As a result of *Cook County v. United States ex rel. Chandler, 123 S. Ct. 1239 (2003) U.S. Supreme Court No. 01-1572*, CV-00-08882GAF, was reinstated on 08/11/2004, however, the City raised the issue of "statute of limitations." See excerpts of

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[2] On 10/07/04, an appeal was filed with 9th Circuit Court of Appeals Docket #04-56758. On 11/18/04, U.S. Dist. Judge G. Feess dismissed CV-00-08882GAF. On 11/23/04, the Appellate dismissed, claiming lack of jurisdiction. On 11/30/04, due to case closure, Appellant filed for clarification and reconsideration. On 12/29/04, the Appellate Panel responded, however, did not clarify, nor reconsider. On 01/19/05, Appellate Panel issued a mandate barring any further motions, and/or reconsideration.

CV-00-08882GAF docket entries #123[3], and #124[4]. Please make note of the purpose of the stipulated discovery, that being for "statute of limitations," and nothing else being mentioned.

By March 1, 2004 the City of Los Angeles failed to produce documents. The Appellant filed motions for the City and third parties to compel, however, was denied by the Court, yet Judge Feess maintained his calendared schedule.

The Appellant responded and believed proved "statute of limitations," however, the defendant, after over four years of stalling, raised yet another erroneous issue of funds not being federal grant monies paid to contractors in CV-77-3047HP, that to fulfill the ACD.

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[3] 10/06/2003 **123** MINUTES: scheduling conference held . The court orders limited discovery be conducted as to the subject of materials relating to the statute of limitations question. This discovery is to take place within the next 90 days. If a motion is to be filed regarding the statute of limitations, it is to be filed not later than February 9, 2004, opposition to be filed February 23, 2004, with a reply due March 1, 2004. This matter will be heard on Monday, March 8, 2004, at 9:30 a.m. by Judge Gary A. Feess CR: Lisa Gonzalez (bp) (Entered: 10/07/2003)

[4] 12/30/2003 **124** STIPULATION and ORDER that the City shall serve its responses to Satalich's requests for production of documents and things, set one, and special interrogatories, set one, no later than March 1, 2004. The City shall file any motion relating to the statute of limitations issue no later than April 12, 2004. If a motion is filed, Satalich shall file any opposition no later than April 26, 2004. The City shall file any reply no later than May 3, 2004. If a motion is filed, it shall be heard on Monday, May 10, 2004, at 9:30 a.m. by Judge Gary A. Feess (bp) (Entered: 12/31/2003)

According to the record, and dates, the City was purposely late in discovery and in default. When they finally delivered documents, they intentionally withheld records, most pertinently from the "**Environmental Trust Account**," as mentioned by the CV-77-3047HP Court for the City Controller's Office to accept and disburse Federal and State of California grant monies. Because the Court placed an impossible burden of proving the defendant's new issue, the Appellant filed a motion to reopen discovery, specifically aimed at the City Controller's Office to have, at the expense of the Appellant, the "**Environmental Trust Account**" audited by a **Certified Public Accountant** . The Court denied all motions and objections, and/or enforcement of subpoenas, yet insisted the Appellant prove without access to City Controller's records, that Hyperion ACD contractors were paid with federal grant funds. Note to the Court: Although the City provided very limited documents of their own choosing, the Appellant did find enough additional discovered documentation to merit filing a "**Supplemental Complaint**," which was also denied by Judge Feess. Therefore, **three questions** before this Court: Since the Defendant raised the issue, then did not produce subpoenaed records: Did the District Court error and/or **overreach it's authority by barring** the Appellant's access to City Controller's **public records**, controlling Federal and State grant monies, to prove a Title 31 U.S.C. § 3729 et seq. action, and did the Court also error in **not accepting** the Appellant's **Supplemental Complaint**? **Is the City in default**?

III.

See Appendixes: C, D, E, F, G, H , I, J, K, L, M.

In accordance with Title 28 U.S.C. §§ 144, 455, and; upon motion to recuse and/or disqualification, and; after filing documents asserting impartiality and evidentiary issues, is a U.S. District Judge required to step down, and the case be

assigned to another Judge, on a one time basis only, as stated within the two statutes? And, if a Judge declines to recuse, is it appealable to a higher Court? In separate paradox rulings, District Judge Gary A. Feess was asked twice to recuse himself and twice used United States District Court - CDCA General Orders #194-E and #244 (see Appendix - N, page 42a, and O, page 44a), and by a peer Judge's rulings, remained.

Then, Judge Feess raised and reversed the same issue himself in CV-04-9193GAF, citing:

> "28 U.S.C. § 144 and Section 455 requires a judge to recuse himself in any case in which his impartiality might seem reasonably be questioned."

Question: who is, and where is this reasonable person to be found, and who's responsibility is it to find this person? Judge Feess found his reasonable person in another peer Judge that ruled for him. I'm a reasonable person, and have found numerous other reasonable persons, that contend that Judge Feess, in the language of Title 28 U.S.C. §§ 144, 455, should have simply followed those statutes and stepped down. He should not have further showed impartiality by taking the motion to a fellow Judge down the hallway for whom we all know, would rule(d) in his favor. Upon careful examination of CV-00-08882GAF Docket Entries and Court rulings, any reasonable person will find, that Judge Feess did not accept one sentence, or one paragraph, or one motion, or any evidence submitted by the Appellant. and; not one motion was heard, but in fact all rejected for one reason or another. The record also shows, that in 191 documents there was not one oral argument or hearing held. In fact, Judge Feess's Clerk would call a few days prior to noticed hearings and cancel, or Judge Feess would reject them in Minute Orders. All of his rulings

were done behind closed doors, "**in chambers**".

In 1991, Supreme Court Justice Clarence Thomas introduced me to the term ***Kafkaesque***, which surely applies in this case.

Questions before the Court: Is the Appellant, in accordance with Title 28 U.S.C. §§ 144, 455, considered a reasonable person, and given the presented evidence, should Judge Feess have recuse himself on 8/10/2001 without affidavits, and/or again on 9/13/2004 with affidavits ... on his own, stepped down, rather than use a peer Judge, to hear the motion? The Appellant believes, that when a fellow Judge down the hall ruled against recusal, it was clearly a partial ruling, and an abuse of the Appellant's due process rights.

IV.

Questions regarding the difference between:
(1) Informally requesting recusal without citing Title 28 U.S.C. §§ 144, 455, and/or from that of:
(2) Formally requesting recusal in the form of notarized affidavits, inasmuch as first informal request was identified as a motion by Judge Gary A. Feess, while the second request definitely was formally in the form of a motion, accompanied with notarized affidavits, citing Title 28 U.S.C. §§ 144, 455, then, both requests being denied by the same peer Judge, not assigned to the case. Since Judge Feess did not recuse either time, then, would the two requests be counted at all as noted in 28 U.S.C. § 144, (in part) "*a party may file only one such affidavit in any case*"? Did USDC-CDCA Judge Virginia Phillips, for whom Judge Feess called upon to rule in his disqualification, rule that the first request, without affidavits, count as a "a party may file only one such affidavit in any case"? The Appellant contends, that in both, Judge Feess did not recuse or follow Title 28 U.S.C. §§ 144, 455, but instead

remained on the case, and case was not assigned to another Judge, therefore, the legal issue of counting a recusal in both instances should be moot.

V.

The petitioner is requesting the High Court to examine United States District Court - CDCA General Orders #244 and #194-E (see appendix N and O) In all appearances, elements within these two General Orders are believed used by District Judges as a subterfuge to bypass Title 28 U.S.C. §§ 144, and 455, and due to the fact, there is nothing mentioned in either Title 28 U.S.C. §§ 144, 455 of a motion for recusal to be heard by another single peer Judge, in the same Court House, let alone in any other Court house ___. Further, it would be unconscionable if District Judges have been using General Orders #194-E and #244 to confound and intimidate criminal case Pro se litigants, as well as, civil case Pro se litigants, as myself.

Question: Should recusal elements within USDC - CDCA General Orders #194-E and #244 be legal in accord to Title 28 U.S.C. §§ 144, 455? Also, there is a definitive conflict of opinions as regard Title 28 U.S.C. §§ 144, 455 between the Fifth and DC Appellate Courts. See: *U.S. Supreme Court Liljeberg v. Health Services Acquisition Corp. 486 U.S. 847 (1988) 486 U.S. 847* and US Court of Appeals For The DC Circuit Argued February 26 and 27, 2001 Decided June 28, 2001 No. 00-5212 *United States of America, Appellee v. Microsoft Corporation*, Appellant Consolidated with 00-5213 Appeals from the United States District Court for the District of Columbia (No. 98 cv01232) (No. 98 cv01233). See Appendix D (in part): "***denial of motion to disqualify judge not appealable***." On appeal, if the DC Circuit (retroactively) disqualified District Judge Penfield Jackson, then, surely the same should apply to the 9th Circuit disqualifying Judge Gary

Feess, including all rulings retroactively back to **July 10, 2001?** ***Also, please visit Pacer CV-00-08882GAF docket #60, and make note of where, and when it was acted upon!*** Clearly, out of order, and a month and many rulings later.

VI.

According to the record: On or about 5/24/2001 U.S. District Judge Gary A. Feess, stayed CV-00-08882GAF and spoke with 9th Circuit Appellate Justice Harry Pregerson, pertaining to transferring this case over to him. The Appellant filed an objection, because Judge Pregerson ignored a Title 31 U.S.C. § 3730(h) intervention on March 19, 1999, into CV-77-3047HP. Then again during a U.S. Department of Justice investigation, a second Title 31 U.S.C. § 3729-33 intervention was filed on August 7, 2000, that also denied by Pregerson. Prior to filing, the Appellant checked with the Court Clerk to see if CV-77-3047 was still declared open, and was. After filing, Judge Harry Pregerson back-dated and closed CV-77-3047HP, to the same day Appellant filed, August 7, 2000. That's why CV-00-08882GAF was filed On August 22, 2000. Two Questions: Did Judge Gary Feess, in accordance with USDC-CDCA General Order #244, and Title 28 U.S.C. § 47, overreach his authority and jurisdiction by contacting, with an attempt to transfer CV-00-08882GAF to Appellate Judge Harry Pregerson? And, without being first heard, was it legally appropriate for Judge Pregerson to back date and close CV-77-3047HP during a U.S. Department of Justice investigation?

VII.

The Appellant alleges and claims that the CV-00-08882GAF docket entry records are being skewed and inaccurate. A finder of fact examining filed and entry dates would realize that Judge Feess has intentionally screened and withheld the Appellant's filed documents and also that he issued

a large opinionated order that was not filed into the record. A reconsideration was filed on 3/29/2004, with Judge Feess claiming not having received this filing, which had four methods of Proof of Service. This filing was for "***reconsideration***" to enforce subpoenas, and the Appellant's motions for the defendant and third parties to compel for failing to meet the March 1, 2004 discovery date. Thereafter, Judge Feess apparently claimed to have discovered the "reconsideration." at a much later date, answering on 8/26/04, well past the fact and many, many rulings later . Any legal questions, motions to compel, discovery production of documents were answered by Judge Feess in one word, **DENIED**. **Question:** Was the Docket intentionally skewed, and in his rulings, was Judge Feess partial, arbitrary, and discriminatory towards the Appellant?

The Appellant believes the language in Title 28 U.S.C. § § 144, 455 are as congress intended, very clear. Moreover, since the terms "**extrajudicial** and **intrajudicial**" are not mentioned in either statutes, it's usage should be abandoned. As per statutes, the only diction that should be considered:

> § 455 (in part) "(a) Any justice, judge, or magistrate judge of the United States shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned," and;
>
> § 144 (in part) "the judge before whom the matter is pending has a personal bias or prejudice either against him or in favor of any adverse party, such judge shall proceed no further therein, but another judge shall be assigned to hear such proceeding."

VIII.

Final **Question**: See *Coleman v. City of Frierson (1985)*. Since the City of Los Angeles has stonewalled, and has intentionally withheld subpoenaed public records, and, upon motion, was not compelled by the Court to produce or reopen discovery, has been in **perpetual default**, and since the same questions were (see Appendix F) requested from the 9th Circuit Court of Appeals, and **denied**, claiming non jurisdiction, then, as an alternative, after review, can this Court in accord with Federal Rules of Civil Procedures, Rule 55, and Federal Rules of Evidence **remand back to the 9th Circuit to issue a writ of mandamus/opinion awarding Default Judgment to the Petitioners?**

CONCLUSION AND PRAYER

IX.

In conclusion, the Appellant's prays that the High Court accept to hear all arguments, and rule:

To **remand** to the 9th Circuit Court of Appeals, that Judge Gary A. Feess, be disqualified retroactively from CV-00-08882GAF(PLAx) back to **July 10, 2001.**, and any other related litigation with the Appellant and the CLA. and;

If Judge Feess is not disqualified, then, remand CV-00-08882GAF retroactively back to **July 10, 2001.** and;

That discovery be reopened for audit by a Certified Public Accountant for all public records containing federal grant funding, namely, but not inclusive of aforementioned "Environmental Trust Account" for CV-77-3047HP. and;

Not to amend, but to file a "**Supplemental Complaint**." and;

Rewrite USDC - CDCA General Orders #194-E and #244 to comply 100% with Title 28 U.S.C. §§ 144, 455.

As an alternative. Since the City of Los Angeles has been in perpetual default, remand back to the 9 th Circuit to award the Plaintiffs "Default Judgment."

Respectfully submitted by:

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Date: March 31, 2005

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